

## Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 AF-10 ARA-06 EA-07 EUR-12  
NEA-10 ACDA-07 CIAE-00 PM-04 H-01 INR-07 NSAE-00  
NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 /111 W  
-----230933Z 082949 /20

R 221800Z APR 77  
FM USMISSION GENEVA  
TO SECSTATE WASHDC 6777  
INFO SECDEF WASHDC  
JCS WASHDC  
USMISSION USUN NEW YORK

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DOD: ALSO PASS TO AF/JA, NAVY JAOBDAJAAIA, DCPA

E.O. 11652: N/A  
TAR ICRC, PARM, PFOR  
SUBJECT: LAWS OF WAR COSE - CONCENSUS ON MERCENARIES

1. WORKING GROUP OF COMMITTEE III ARRIVED APRIL 21 AT CONSENSUS TO FORWARD TO THE COMMITTEE FOR ADOPTION A COMPROMISE ARTICLE ON MERCENARIES DEVELOPED THROUGH PRIVATE CONSULTATIONS LED BY NIGERIA. NIGERIANS ACCEPTED MOST SUGGESTIONS BY U.S. DELEGATION, AND RESULTING TEXT IS INNOCUOUS. WHILE DEPRIVING MERCENARIES OF RIGHT TO PW AND COMBATANT STATUS, IT SO DEFINES THE TERM "MERCENARY" AS TO VIRTUALLY ENSURE THAT NO ONE WILL EVER BE COVERED. RADICALS FAILED IN EFFORTS TO DECLARE BEING A MERCENARY A CRIME AND TO DENY MERCENARIES BASIC HUMANITARIAN PROTECTION OF ARTICLE 65 OF DRAFT PROTOCOL.

2. TEXT OF PROPOSED NEW ARTICLE ON MERCENARIES RECOMMENDED FOR ADOPTION BY COMMITTEE III WORKING GROUP 21 APRIL IS AS FOLLOWS:  
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1.. A MERCENARY SHALL NOT HAVE THE RIGHT TO BE A COMBATANT OR PRISONER OF WAR.

2. A MERCENARY IS ANY PERSON WHO:

(A) IS SPECIALLY RECRUITED LOCALLY OR ABROAD IN

ORDER TO FIGHT IN AN ARMED CONFLICT;

(B) DOES TAKE A DIRECT PART IN THE HOSTILITIES;

(C) IS MOTIVATED TO TAKE PART IN THE HOSTILITIES  
ESSENTIALLY BY THE DESIRE FOR PRIVATE GAIN  
AND, IN FACT, IS PROMISED BY OR ON BEHALF OF  
A PARTY TO THE CONFLICT MATERIAL COMPENSA-  
TION SUBSTANTIALLY IN EXCESS OF THAT PRO-  
MISED OR PAID TO COMBATANTS OF SIMILAR RANKS  
AND FUNCTIONS IN THE ARMED FORCES OF THAT PARTY;

(D) IS NEITHER A NATIONAL OF A PARTY TO THE CON-  
FLICT NOR A RESIDENT OF TERRITORY CONTROLLED  
BY A PARTY TO THE CONFLICT; AND

(E) IS NOT A MEMBER OF THE ARMED FORCES OF A  
PARTY TO THE CONFLICT, OR OF ANY STATE AND  
SENT BY THAT STATE.

3. TEXT ASSERTED TO BE A GREAT VICTORY BY AFRO-ASIAN  
BLOC. EXCLUSION OF MEMBERS OF ARMED FORCES (PARAGRAPH  
2E) MEANS TEXT HAS LITTLE PRACTICAL EFFECT. INTRODUCED  
BY AMBASSADOR CLARK OF NIGERIA AS REPRESENTING A DELI-  
CATE BALANCE, IT WAS PRAISED BY VIRTUALLY ALL. IT WAS  
AGREED WITHOUT OBJECTION THAT THE COMMITTEE REPORT

SHOULD SPECIFICALLY REFLECT THAT MERCENARIES ARE  
ENTITLED TO RECEIVE HUMANITARIAN TREATMENT AND FUNDA-  
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MENTAL GUARANTEES, IF TRIED, SUCH AS THOSE UNDER  
ARTICLE 65 FUNDAMENTAL GUARANTEES AND ARTICLE 42 GIS.  
SORENSEN

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** WAR, COMMITTEES  
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**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977GENEVA03015  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Line Count:** 100  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Page Count:** 2  
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**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Retention:** 0  
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**Review Release Event:** n/a  
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**Review Withdrawn Fields:** n/a  
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**Subject:** LAWS OF WAR COSE - CONCENSUS ON MERCENARIES  
**TAGS:** PARM, PFOR, XX, ICRC  
**To:** STATE  
**Type:** TE  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
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